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SENATE BILL 81

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Howie C. Morales

AN ACT

RELATING TO ELECTIONS; ELIMINATING THE USE OF VOTERS' SOCIAL SECURITY NUMBERS ON CERTAIN ELECTION-RELATED DOCUMENTS; CHANGING CERTAIN ELECTION CODE TERMINOLOGY; CHANGING THE DEFINITION OF "REQUIRED VOTER IDENTIFICATION"; CHANGING REQUIREMENTS FOR CERTAIN ABSENTEE BALLOT MATERIALS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-1-24 NMSA 1978 (being Laws 2005, Chapter 270, Section 6) is amended to read:

"1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the Election Code, "required voter identification" means any of the following forms of identification as chosen by the voter:

A. a physical form of identification, which may be:

(1) an original or copy of a current and valid

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1 photo identification with or without an address, which address
2 is not required to match the voter's certificate of
3 registration [~~or a voter identification card~~]; or

4 (2) an original or copy of a utility bill,
5 bank statement, government check, paycheck, student
6 identification card or other government document, including
7 identification issued by an Indian nation, tribe or pueblo,
8 that shows the name and address of the person, the address of
9 which is not required to match the voter's certificate of
10 registration; or

11 B. a verbal or written statement by the voter of
12 the voter's name, registration address and year of birth [~~and~~
13 ~~unique identifier~~]; provided, however, that the statement of
14 the voter's name need not contain the voter's middle initial or
15 suffix."

16 Section 2. Section 1-4-5 NMSA 1978 (being Laws 1969,
17 Chapter 240, Section 63, as amended) is amended to read:

18 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
19 INFORMATION--PENALTY.--

20 A. A qualified elector may apply to a registration
21 officer or agent for registration.

22 B. The registration officer or agent or qualified
23 elector shall fill out each of the blanks on the certificate of
24 registration by typing or printing in ink. The qualified
25 elector shall be given a receipt that shall contain:

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1 (1) a number traceable to the registration
2 agent or officer;

3 (2) a statement informing the qualified
4 elector that if the qualified elector does not receive
5 confirmation of the qualified elector's registration within
6 fifteen days of the receipt date, the qualified elector should
7 contact the office of the county clerk in the county where the
8 qualified elector resides; and

9 (3) a toll-free number for the office of the
10 county clerk and an address for the web site of the secretary
11 of state.

12 C. The qualified elector shall subscribe a
13 certificate of registration as follows:

14 (1) by signing the certificate of registration
15 using the qualified elector's given name, middle name or
16 initial and last name; or

17 (2) if any qualified elector seeking to
18 register is unable to read and write either the English or
19 Spanish language or is unable to read or write because of some
20 physical disability, the certificate of such person shall be
21 filled out by a registration officer or agent and the name of
22 the qualified elector so registering shall be subscribed by the
23 making of the qualified elector's mark.

24 D. When properly executed by the registration agent
25 or officer, or qualified elector, the original of the

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1 certificate of registration shall be presented, either in
2 person or by mail by the qualified elector or by the
3 registration agent or officer, to the county clerk of the
4 county in which the qualified elector resides.

5 E. Only when the certificate of registration is
6 properly filled out, subscribed by the qualified elector and
7 accepted for filing by the county clerk as evidenced by the
8 county clerk's signature or stamp and the date of acceptance
9 thereon shall it constitute an official public record of the
10 registration of the qualified elector. It is unlawful for the
11 qualified elector's date of birth or any portion of the
12 qualified elector's social security number required on the
13 certificate of registration to be copied, conveyed or used by
14 anyone other than the person registering to vote, either before
15 or after it is filed with the county clerk, [~~except~~] and by
16 elections administrators [~~for purposes of the registration~~
17 ~~process~~] in their official capacity.

18 F. A person who unlawfully copies, conveys or uses
19 information from a certificate of registration is guilty of a
20 fourth degree felony."

21 Section 3. Section 1-5-7 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 109, as amended) is amended to read:

23 "1-5-7. [~~PRECINCT VOTER LISTS~~] SIGNATURE ROSTERS AND
24 CHECKLISTS OF VOTERS--CONTENTS.--

25 A. The [~~precinct voter lists and~~] signature

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1 ~~[rosters]~~ roster and checklist of voters for any precinct shall
2 contain for each voter, as shown in the county register, the
3 voter's:

4 (1) name;

5 (2) gender;

6 (3) place of residence;

7 ~~[(4) last four digits of the voter's social~~
8 ~~security number;~~

9 ~~(5)]~~ (4) year of birth;

10 ~~[(6)]~~ (5) party affiliation, if any; and

11 ~~[(7)]~~ (6) precinct of residence.

12 B. In addition, the names on each ~~[precinct voter~~
13 ~~list and]~~ signature roster and checklist of voters shall be
14 numbered consecutively beginning with the number "1".

15 C. On each page of each ~~[precinct voter list and on~~
16 ~~each]~~ signature roster and each checklist of voters there shall
17 be printed the page number and the date and name of the
18 election for which they are to be used."

19 Section 4. Section 1-5-8 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 110, as amended) is amended to read:

21 "1-5-8. ~~[PRECINCT VOTER LISTS]~~ SIGNATURE ~~[ROSTERS]~~
22 ROSTER--CHECKLIST OF VOTERS--VOTER LIST--NUMBER--
23 DISTRIBUTION.--

24 ~~[A. One copy of the signature roster shall be~~
25 ~~prepared for each precinct. On the cover of the signature~~

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1 ~~roster shall be printed the words, "Copy for the County Clerk".~~
2 ~~Upon its preparation and certification as to its accuracy and~~
3 ~~completeness, the county clerk shall deliver the copy of the~~
4 ~~signature roster to the precinct board.~~

5 ~~B.]~~ A. The county clerk shall prepare [~~three copies~~
6 ~~of the precinct voter list]~~ and certify the accuracy of one
7 signature roster and one checklist of voters for each precinct.
8 [~~Of the three copies prepared, one copy shall not include the~~
9 ~~voters' unique identifiers. The other two shall contain the~~
10 ~~voters' unique identifiers.] The county clerk shall deliver~~
11 [~~two of the copies]~~ such roster and checklist to each precinct
12 board. [~~One copy of the precinct voter list shall be retained~~
13 ~~by the county clerk for verification purposes on election day~~
14 ~~and one copy for the secretary of state shall be marked to~~
15 ~~verify those voters on the list who voted.~~

16 ~~C.~~ Two copies of the county voter list, arranged in
17 alphabetical order, shall be prepared for election day for
18 verification purposes only.] The voter shall sign the signature
19 roster before receiving a ballot. The precinct board member
20 shall mark the checklist of voters to verify the voters on the
21 list who have voted.

22 B. The county clerk shall prepare an alphabetical
23 listing of voters in each precinct, which will be delivered to
24 each precinct board and posted inside the polling place for
25 public use.

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1 C. After the polls have closed, the presiding judge
2 shall deliver the signed signature roster to the county clerk
3 and mail the checklist of voters to the secretary of state."

4 Section 5. Section 1-6-4 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 130, as amended) is amended to read:

6 "1-6-4. ABSENTEE BALLOT APPLICATION--FEDERAL QUALIFIED
7 ELECTOR--OVERSEAS VOTER.--

8 A. Application by a federal qualified elector or an
9 overseas voter for an absentee ballot shall be made on the
10 official postcard form prescribed or authorized by the federal
11 government to the county clerk of the county of the applicant's
12 residence. The form shall allow the applicant to receive an
13 absentee ballot for all elections within an election cycle.

14 B. Application by a voter for an absentee ballot
15 shall be made only on a form prescribed by the secretary of
16 state in accordance with federal law. The form shall identify
17 the applicant and contain information to establish the
18 applicant's qualification for issuance of an absentee ballot
19 under the Absent Voter Act; provided that on the application
20 form for a general election ballot there shall be no box, space
21 or place provided for designation of the voter's political
22 party affiliation.

23 C. Each application for an absentee ballot shall be
24 subscribed by the applicant and shall require the applicant's
25 printed name, registration address and year of birth [~~and~~

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1 ~~unique identifier~~] to be supplied by the applicant, which shall
2 constitute the required form of identification, except for new
3 registrants who have registered by mail and at that time did
4 not provide acceptable identification. The secretary of state
5 shall issue rules to exempt voters from submitting
6 identification only as required by federal law and shall review
7 and, if necessary, update these rules no later than March 15 of
8 even-numbered years.

9 D. An application for an absentee ballot by a
10 federal qualified elector or an overseas voter shall be
11 accepted at any time preceding the general election."

12 Section 6. Section 1-6-8 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 134, as amended) is amended to read:

14 "1-6-8. ABSENTEE BALLOT ENVELOPES.--

15 A. The secretary of state shall prescribe the form
16 of, procure and distribute to each county clerk a supply of:

17 (1) official inner envelopes for use in
18 sealing the completed absentee ballot;

19 (2) official mailing envelopes for use in
20 returning the official inner envelope to the county clerk;
21 provided the official mailing envelope for absentee ballots in
22 a general election shall contain no designation of party
23 affiliation;

24 (3) absentee ballot instructions, describing
25 proper methods for completion of the ballot and returning it;

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1 and

2 (4) official transmittal envelopes for use by
3 the county clerk in mailing absentee ballot materials.

4 B. Official transmittal envelopes and official
5 mailing envelopes for transmission of absentee ballot materials
6 to and from the county clerk and federal qualified electors
7 shall be printed [~~in red~~] in the form prescribed by the federal
8 Uniformed and Overseas Citizens Absentee Voting Act. Official
9 transmittal envelopes and official mailing envelopes for
10 transmission of absentee ballot materials to and from the
11 county clerk and voters shall be printed in black in
12 substantially similar form. All official inner envelopes shall
13 be printed in black.

14 C. The reverse of each official mailing envelope
15 shall contain a form to be executed by the voter completing the
16 absentee ballot. The form shall identify the voter and shall
17 contain the following statement: "I will not vote in this
18 election other than by the enclosed ballot. I will not receive
19 or offer any compensation or reward for giving or withholding
20 any vote."

21 D. The official mailing envelope shall contain a
22 space for the voter to record the voter's [~~unique identifier~~]
23 name, registration address and year of birth [~~and name~~]. The
24 envelope shall have a security flap to cover this information."

25 Section 7. Section 1-6-9 NMSA 1978 (being Laws 1969,
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1 Chapter 240, Section 135, as amended) is amended to read:

2 "1-6-9. MANNER OF VOTING.--

3 A. A person voting pursuant to the Absent Voter Act
4 shall secretly mark the absentee ballot in the manner provided
5 in the Election Code for marking [~~emergency~~] paper ballots,
6 place it in the official inner envelope and securely seal the
7 envelope. The voter shall then place the official inner
8 envelope inside the official mailing envelope and securely seal
9 the envelope. The voter shall then complete the form on the
10 reverse of the official mailing envelope, which shall include
11 an affirmation by the voter under penalty of perjury that the
12 facts stated in the form are true and the voter's name,
13 registration address and year of birth [~~and unique identifier~~].

14 B. Federal qualified electors and overseas voters
15 shall either deliver or mail the official mailing envelope or
16 electronically transmit the absentee ballot to the county clerk
17 of their county of residence or deliver it to a person
18 designated by federal authority to receive executed ballots for
19 transmission to the county clerk of the county of residence or
20 former residence as the case may be. Voters shall either
21 deliver or mail the official mailing envelope to the county
22 clerk of their county of residence."

23 Section 8. Section 1-12-7.1 NMSA 1978 (being Laws 1969,
24 Chapter 240, Section 112, as amended) is amended to read:

25 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF

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1 VOTERS--USE DURING ELECTION.--

2 A. Each precinct board using voter lists shall post
3 securely at or near the entrance of the polling place one copy
4 of [~~the precinct voter list~~] an alphabetical list of voters for
5 use of the voters prior to voting. The posted copy shall not
6 contain a listing of voter addresses, years of birth, unique
7 identifiers or social security numbers.

8 B. The presiding judge of the precinct board shall
9 assign one judge of the board to be in charge of one copy of
10 the [~~precinct voter list~~] checklist of voters, which shall be
11 used to confirm the registration and voting of each person
12 offering to vote.

13 C. The presiding judge of the precinct board shall
14 assign one election clerk to be in charge of the signature
15 roster.

16 D. The judge assigned to the [~~precinct voter list~~]
17 checklist of voters used for confirmation of registration and
18 voting shall determine that each person offering to vote is
19 registered and, in the case of a primary election, that the
20 voter is registered in a party designated on the primary
21 election ballot. If the person's registration is confirmed by
22 the presence of the person's name on the [~~precinct voter list~~]
23 checklist of voters and the voter provides the required voter
24 identification, the judge shall announce to the election clerks
25 the list number and the name of the voter as shown on the

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1 [~~precinct voter list~~] checklist of voters. If the voter does
2 not provide the required voter identification, the voter shall
3 be allowed to vote on a provisional ballot and shall provide
4 the required voter identification to the county clerk's office
5 before the county canvass begins, or to the precinct board
6 before the polls close, or the voter's provisional ballot shall
7 not be qualified. If the required voter identification is
8 provided, the voter's provisional ballot shall be qualified and
9 the voter shall not vote on any other type of ballot.

10 E. The election clerk shall locate that list number
11 and name on the signature roster and shall require the voter to
12 sign the voter's usual signature or, if unable to write, to
13 make the voter's mark opposite the voter's printed name. If
14 the voter makes the voter's mark, it shall be witnessed by one
15 of the judges of the precinct board. If the signature roster
16 indicates that the voter is required to present a physical form
17 of identification before voting, the election judge shall ask
18 the voter for the required physical form of identification. If
19 the voter does not provide the required identification, the
20 voter shall be allowed to vote on a provisional paper ballot;
21 provided, however, that if the voter brings the required
22 physical form of identification to the polling place after
23 casting a provisional ballot, that ballot shall be qualified
24 and the voter shall not vote on any other type of ballot.

25 F. The election judge shall follow the procedures

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1 provided for in Sections 1-12-7.2 and 1-12-8 NMSA 1978 if a
2 person whose name does not appear on the signature roster
3 requests to vote or a person is required to vote on a
4 provisional paper ballot.

5 G. A voter shall not be permitted to vote until the
6 voter has properly signed the voter's usual signature or made
7 the voter's mark in the signature roster.

8 H. After the poll is closed, the election clerk in
9 charge of [a] the signature roster shall draw a single
10 horizontal line in ink through each signature space in the
11 signature roster where no signature or mark appears."

12 Section 9. Section 1-12-25.3 NMSA 1978 (being Laws 2003,
13 Chapter 356, Section 6, as amended) is amended to read:

14 "1-12-25.3. PROVISIONAL PAPER BALLOTS--REQUIRED
15 INFORMATION.--

16 A. At a minimum, the following information shall be
17 printed on the outer envelope for a provisional paper ballot:

- 18 (1) the name and signature of the voter;
19 (2) the voter's registered address, both
20 present and former if applicable;
21 (3) the voter's date of birth;
22 (4) the reason for using the ballot;
23 (5) the precinct and the polling place at
24 which the voter has voted; and
25 [~~(6) the voter's social security number; and~~

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~~(7)~~] (6) sufficient space to list the disposition of the ballot after review by the county clerk.

B. A provisional paper ballot shall not be rejected for lack of the information required by this section and shall be qualified as long as the voter provides a valid signature and sufficient information for the clerk to determine the voter is a qualified elector."

Section 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.